

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAMES ALLEN BOYD,

Plaintiff,

v.

BRENT CARNEY, et al.,

Defendants.

CASE NO. C11-5782HS

ORDER DENYING MOTION TO
PROCEED IN FORMA
PAUPERIS ON APPEAL

This matter comes before the Court on Plaintiff James Allen Boyd's ("Boyd") motion to proceed in forma pauperis on appeal (Dkt. 37). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

On July 31, 2012, United States Magistrate Judge Karen L. Strombom issued a Report and Recommendation ("R&R") recommending that the Court deny Boyd's motion for preliminary injunction. Dkt. 30. On August 8, 2012, Boyd filed a document titled "Plaintiff's Waiver of Objections for Preliminary Injunction and Restraining Order" in which he states that he waives objections to the Court's decision on this matter. Dkt.

1 32. Accordingly, on August 23, 2012, the Court issued an order adopting the magistrate
2 judge's R&R (Dkt. 30) on Boyd's motion for preliminary injunction. Dkt. 34.

3 On August 1, 2012, the magistrate judge issued a separate R&R on the parties'
4 motions for summary judgment. Dkt. 31. On August 16, 2012, Boyd filed objections to
5 the R&R. Dkt. 33. These objections and the R&R on the parties' motions are still
6 pending before the Court.

7 On September 4, 2012, Boyd filed a notice of appeal of the Court's order adopting
8 the R&R on Boyd's motion for preliminary injunction with the Ninth Circuit Court of
9 Appeals. Dkt. 35. On September 11, 2012, the Ninth Circuit referred Boyd's motion for
10 leave to appeal in forma pauperis to the Court for consideration. Dkt. 37. Because Boyd
11 is seeking to appeal from an order adopting an R&R to which he expressly waived
12 objections, the Court concludes that his motion to proceed in forma pauperis should be
13 denied as the appeal is frivolous and not taken in good faith. *See* 28 U.S.C. § 1915(a)(3).

14 Therefore, the Court hereby **ORDERS** that Boyd's motion to proceed in forma
15 pauperis on appeal (Dkt. 37) is **DENIED**.

16 Dated this 18th day of September, 2012.

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19 BENJAMIN H. SETTLE
20 United States District Judge
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